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liberally in favor of the land-owners, and to impose no conditions on their power to give or withhold consent. *Merriam v. Utica R. R. Co.*, 18 N. Y. Misc. 269. An injunction will be granted if the company begins construction without obtaining the required assent. *Stockton v. Railway Co.*, 53 N. J. Eq. 418.

TRUST DEED—VALIDITY—PERPETUITIES—PUBLIC CHARITY.—TROUTMAN ET AL. v. DE BOISSIERE ODD FELLOWS' ORPHANS' HOME AND INDUSTRIAL SCHOOL ASSOCIATION ET AL., 71 PAC. 286 (KAN.).—A conveyance of land was made to trustees and their successors in perpetual trust to provide a home and school for children of deceased members of a secret society. *Held*, that it was not a gift for purposes of a public charity, and was void by the rule against perpetuities. Cunningham, Pollock and Burch, JJ., dissenting.

The majority opinion asserts that no trust can be considered a public charity, the purpose of which is not one which the State might itself undertake. In so far as it affects the validity of the trust this assumption is new. Trusts for the poor of churches or secret societies have been held charitable. *Conklin v. Davis*, 63 Conn. 377; *Atty.-Gen. v. Old South Soc.*, 13 Allen (Mass.) 474; *Duke v. Fuller*, 6 N. H. 536. And secret societies, as such, have been held charitable objects. *Everett v. Carr*, 59 Me. 325; *King v. Parker*, 9 Cush. (Mass.) 71; *Savannah v. Lodge*, 53 Ga. 93; *Indianapolis v. Grand Master*, 25 Ind. 518; *Vander Volgen v. Yates*, 3 Barb. Ch. 242. *Contra*, *Babb v. Reed*, 5 Rawle (Pa.) 151; *Bangor v. Lodge*, 73 Me. 428.

## REVIEWS.

*A Treatise on the Power of Taxation, State and Federal in the United States.* By Frederick N. Judson, of the St. Louis Bar. F. H. Thomas Law Book Co., St. Louis, 1903. 1 vol., sheep, pp. 868.

Taxation has not received as much attention from text writers as its importance would seem to demand. Judge Cooley in 1876 wrote the first comprehensive treatise on the general subject. A two volume work by Desty followed in 1884. Recently, however, it has come into greater prominence. Reforms in the methods and principles of taxation are progressing rapidly. Indiana in 1891 developed a new machinery that was watched with interest by other States and led the way for Michigan's reform in 1899, and the notable attempts of Ohio, Wisconsin and Minnesota. And while economists have pointed the way, and legislatures experimented, the courts have weighed more carefully than ever its delicate problems complicated by our dual system of State and national sovereignty. And as the conditions of the times appear to require books upon subdivisions of important subjects, so the various phases of taxation are beginning to be treated separately. In 1886 Mr. Welty's book

on Assessments and Taxation appeared, and in 1895 Dos Passos on the Inheritance Tax Law.

Mr. Judson devotes his volume entirely to the *power* of taxation. In his preface he says: "It is the aim of this work to show the limitations of the taxing power of the State and of the Federal government so far as these limitations have been declared and expounded by the Supreme Court of the United States. Decisions of the State courts and inferior Federal courts have been cited as applying or illustrating the limitations thus declared. These limitations fix what the State *can* tax. What it *has* taxed must be learned from its own statutes and the decisions of its own courts. What it *ought* to tax is a question for economists and reformers."

The inherent difficulty of this subject becomes apparent when we recall the long line of decisions of the Supreme Court which it has called forth and the series of able dissenting opinions that accompany them. The extent and importance of the author's treatment is seen by a glance at the topics of the several chapters: I. Limitations upon State taxation growing out of the relations of the State and Federal governments; II. Contracts of exemption from taxation; III, IV, V. Regulation of commerce; VI. Regulation of commerce—the taxation of steamboats and vessels; VII. Taxation of interstate commerce; VIII. Valuation of interstate properties for taxation; IX. Taxation of national banks; X. The fourteenth amendment; XI. Due process of law in tax procedure; XII. Due process of law and the public purpose of taxation; XIII. Due process of law in special assessments for local improvements; XIV. Due process of law and the jurisdiction of the States; XV. Equal protection of the laws; XVI. Equal protection of the laws in the valuation of property; XVII. Taxing power of Congress; XVIII. The enforcing of federal limitations upon the taxing power.

Under these heads, it will be seen, come some of our most famous decisions. Beginning with *McCulloch v. Maryland*, the author takes us through the long maze to the Insular Cases with such a strong grasp of the entire field that the reader is carried along with a continuity of thought that rivets his attention and absorbs his interest as he sees the evolution of this judge-made law. Mr. Judson has shown his complete mastery of the subject as much by what he has refrained from doing as by what he has actually done. Judge Cooley remarked: "The subject of taxation seems to invite some consideration of questions of political economy," but the author does not for a moment fall to the temptation, and never suffers himself to wander from the exact task in hand. His style throughout is clear, vigorous, and convincing. The mechanical execution is excellent, the type being large and the index complete. A conviction is borne in upon the reader as he closes its leaves that it will be of the greatest service to the profession, a valuable assistance to the student, and the standard work on an important branch of an exceedingly important subject.

J. H. S.